

The Attorney General of Texas

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Honorable Chet Brooks, Chairman
Committee on Human Resources
Senate Chamber
Austin, Texas

Opinion No. H- 1126

Re: Authority of members of
Board of Texas Department of
Health to enter and inspect
nursing homes.

Dear Senator Brooks:

You have requested our opinion regarding the authority of individual members of the State Board of Health to enter and inspect nursing homes.

The State Board of Health is composed of 18 members appointed by the Governor. V.T.C.S. art. 4415a. The Board is empowered to employ a Director of the State Department of Public Health, and to investigate the conduct of the work of the Department. V.T.C.S. art. 4418a. The Department, as the licensing agency charged with the duty of regulating nursing and convalescent homes, is authorized to "make such inspections and investigations" of those facilities "as it deems necessary." V.T.C.S. art. 4442c.

We need not reach the issue of whether article 4442c would permit an individual Board member to make inspections of nursing and convalescent homes in the absence of authorization by a majority of the Board, since article 4420, V.T.C.S., enacted in 1909, empowers

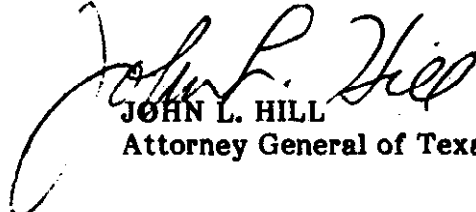
members of the State Board of Health or any person authorized by them, upon presentation of proper authority in writing . . . whenever they may deem it necessary in pursuance of their duties, to enter into, examine, investigate, inspect and view any ground, public building, factory, slaughter house, packing house, abattoir, dairy, bakery, manufactory, hotel, restaurant and any other public place and building where they deem it proper to enter for the discovery and suppression of disease and for the enforcement of the rules of the sanitary code for Texas and of any health law, sanitary law or quarantine regulation of this State.

(Emphasis added). It is apparent that article 4420 uses the term "public place" to refer to any location which is affected with a public interest. In our opinion, therefore, a member of the State Board of Health is authorized to make inspections and investigations of nursing and convalescent homes pursuant to article 4420. See Attorney General Opinion O-6919 (1945) (authority under article 4420 to inspect convalescent homes).


S U M M A R Y

A member of the State Board of Health is authorized to make inspections and investigations of nursing and convalescent homes pursuant to article 4420, V.T.C.S.

Very truly yours,


JOHN L. HILL
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APPROVED:


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C. ROBERT HEATH, Chairman
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